

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BILL LIETZKE

Plaintiff,

v.

CITY OF MONTGOMERY, et al.,

Defendants.

Case No. 3:14-cv-00371-MMD-VPC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
VALERIE P. COOKE

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (dkt. no. 5) ("R&R") relating to Plaintiff's Application to Proceed *In Forma Pauperis* (dkt. no. 1). Plaintiff filed objections thereto on August 21, 2014 ("First Objection"), and September 24, 2014 ("Second Objection") (dkt. nos. 6 & 11). Plaintiff also filed a second Application to Proceed *In Forma Pauperis* (dkt. no. 8).

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). In light of Plaintiff's objection, the Court engages in a *de novo* review to determine whether to adopt Magistrate Judge Cook's Recommendation.

The Magistrate Judge recommended that the District Court grant Plaintiff's application to proceed *in forma pauperis*. The Magistrate Judge further recommended


1 that dismiss this case be dismissed for lack of personal jurisdiction because plaintiff and
2 defendants are alleged to be residents of Alabama and there are no allegations of
3 contacts with Nevada¹. In his First Objection, Plaintiff states that in September 2008,
4 attorneys for Defendants Walter J. Byars, filed Defendants' response to Plaintiff's case
5 that Plaintiff alleged to have filed "in the Regional Justice Center" in Las Vegas. (Dkt.
6 no. 6.) Plaintiff appears to claim that such response establishes sufficient minimum
7 contact. However, filing a response to an action that Plaintiff filed in Nevada does not
8 establish sufficient minimum contact for purposes of personal jurisdiction over
9 defendants who all appear to be citizens of Alabama. Plaintiff's Second Objection is
10 untimely and improper because he already had timely objected, and it also makes no
11 sense. In his Second Objection, Plaintiff recounts alleged incidences of kidnapping in
12 Montgomery, Alabama. (Dkt. no. 11.) Upon reviewing the Recommendation and
13 Plaintiff's filings, this Court finds good cause to adopt the Magistrate Judge's
14 Recommendation in full.

15 It is therefore ordered, adjudged and decreed that the Report and
16 Recommendation of Magistrate Judge Valerie P. Cooke (dkt. no. 5) be accepted and
17 adopted in its entirety. Plaintiff's second Application to Proceed *In Forma Pauperis* (dkt.
18 no. 8) is also denied.

19 It is ordered that this action is dismissed without prejudice.

20 The Clerk is instructed to administratively close this case.

21 DATED THIS 1st day of October 2014.

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23 
24 _____
25 MIRANDA M. DU
26 UNITED STATES DISTRICT JUDGE

27 ¹The complaint attached to Plaintiff's second Application to Proceed *In Forma*
28 *Pauperis* makes similar allegations against the same defendants for incidents that
allegedly occurred in Montgomery, Alabama since the filing of this action. (Dkt. no. 8-1.)